

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
EX REL. KENNETH W. ABBOTT, ET AL.,	§	
	§	C. A. No. 4:09-cv-01193
v.	§	
	§	JURY DEMANDED
BP EXPLORATION AND	§	
PRODUCTION INC., ET AL.,	§	

**BP'S RESPONSE TO PLAINTIFFS' ADVISORY  
REGARDING 2012 ATLANTIS SUBSEA MAINTENANCE WORK**

BP Exploration & Production Inc., BP America Inc., BP p.l.c., and BP Products North America Inc. respond to the "advisory" plaintiffs filed on August 6, 2012, Doc. 412, and ask the Court to disregard it.

**Introduction**

The equipment changes plaintiffs discuss in their advisory—which were planned five years ago—are not news and are not relevant to any issues raised in the pending motions for summary judgment. The advisory serves no legitimate purpose; it is another attempt to distract the Court from the merits of the dispositive motions.

Plaintiffs have known about the long-standing plan for this work for more than a year. The DOI Report to Congress on Atlantis issued nearly a year and a half ago, on March 4, 2011, discussed this work. Plaintiffs' lead counsel questioned a witness about the modifications during a deposition nearly a year ago, in September 2011. Abbot himself has admitted he knew about them in 2008. BP produced documents about the work while discovery was still open. Even the sources plaintiffs cite and attach to their advisory state that the work is part of a plan that has been in place for over five years. Plaintiffs' Exs. A, C.

Moreover, the modifications were made to give Atlantis more operational flexibility and extend its operational life, *not to repair any defects*. The Court should disregard plaintiffs' advisory.

**Plaintiffs Knew About This Work Long Ago**

As scheduled more than five years ago, BP conducted in 2012 a planned shutdown for maintenance that included replacing several manifolds and other subsea equipment. Plaintiffs state that they only "recently learned" of the subsea equipment changes and "BP has not shared this information." Doc. 412 at 1. Neither statement is correct. Plaintiffs knew more than a year ago that this work would occur. For example, almost a year and a half ago, the March 2011 DOI Report (which has been the subject of extensive briefing in this case) discussed the subsea equipment replacements scheduled for 2012. Specifically, the DOI Report states:

BP attempted to avoid confusion in its document control system . . . by referring to the original set of manifolds, PLETs, and PLEMs as "SS-0" and to the first generation of refurbished subsea equipment as "SS-1." The equipment included in SS-1 is anticipated to have a useful life through 2012. BP plans to install "SS-2" equipment, which BP believes will have an extended useful life, during 2012.

Ex. A, DOI Report at 9-10; *id.* at 30.

Similarly, in the deposition of Ronald Berger<sup>1</sup> on September 15, 2011, the following exchange with plaintiffs' lead counsel occurred:

Q. [by Mr. Perry] All right. If – if it – and the plan is to replace the SS 1s with the SS 2s at some time, as I understand it?

A. That's correct.

Q. Is there a target date for when that will happen?

A. That process – the physical offshore process of beginning shutdown – the shutdown to start the campaign is, I believe, April 1st in 2012.

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<sup>1</sup> BP Senior Subsea Operations Engineer from 2005 to 2009.

Q. And is there presently an ongoing project to do that replacement?

A. Yes.

Ex. B., Dep. of Ronald K. Berger at 61.

Plaintiff Abbott himself also testified that he was aware of the ongoing changes to the subsea equipment:

Q. While you're there, additional subsea equipment is being installed?

A. Correct.

Q. So that ongoing installation of new subsea equipment and this change out of the manifolds, you knew that was going to continue long after –

A. Probably for years, right.

...

Q. And I want to focus on the line in the middle. It says: "Attached is a proposed well sequence from Jessica that shows what is required to fill the topsides capacity by the end of 2012." Do you see that?

A. Correct.

Q. So you understood that this development of this subsea equipment in addition to new equipment was going to continue for years, right?

A. Correct.

Ex. C, Dep. of Kenneth Abbott at 35-36.

Similarly, BP produced numerous documents concerning this work while discovery was open. For example, BP attaches the following documents to this response:

- Atlantis SS2 Scope of Work at BPEP\_ABB\_00224667-68 (providing a detailed plan for the SS2 Change-Out scheduled to occur between April and July of 2012, which would include "shut-in, decommission & Change-out [of] PLEMs, Manifolds & Associated Jumpers"), Ex. D;
- Well Systems Integration & Design Engineering, Statement of Requirements at BPEP\_ABB\_00215691, 97 (discussing the replacement of manifolds and other subsea equipment scheduled to occur in April 2011 and April 2012), Ex. E;

- Atlantis Phase 2B SSII Installation Execution Plan at BPEP\_ABB\_00888830 (discussing the planned “SS2 shutdown in 2012” that includes the installation of different manifolds), Ex. F;
- Atlantis Subsea Equipment Installation and Recovery Dates at BPEP\_ABB\_01525121 (providing a schedule for the SS1 and SS2 installations), Ex. G.

Accordingly, plaintiffs were provided ample notice more than a year ago of this long ago scheduled equipment update, and if it were relevant to any issue in dispute in the pending dispositive motions (which it is not), they could and should have raised it long ago.

### **Conclusion**

Plaintiffs have known about these subsea equipment changes for more than a year and their unnecessary attempts to distract the Court should be disregarded.

Dated: August 14, 2012.

Respectfully submitted,

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**CERTIFICATE OF FILING AND SERVICE**

I certify that on August 14, 2012, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all registered counsel of record.

/s/ Anne M. Rodgers

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